

REMARKS

In the Office Action, dated December 15, 2004, the Examiner has rejected claims 1-20. By the present amendment, claims 1, 3, 5, 6, 8, 10, 12, 13, 14, 16, 18 and 19 have been amended. After the present amendment, claims 1-20 are pending in the application. Reconsideration and allowance of pending claims 1-20 in view of the following remarks are respectfully requested.

A. Claim Objections

The Examiner has objected to the second occurrence of claim 12. Further, the Examiner has objected to the dependence of the second occurrence of claim 12 from claim 7. By the present amendment, the second occurrence of claim 12 has been renumbered as claim 13, which depends from claim 8. Accordingly, it is respectfully submitted that the Examiner's objection has been overcome.

B. Rejection of Claims 1-20 under the Judicially Created Doctrine of Double Patenting

The Examiner has rejected claims 1-20 under the judicially created doctrine of double patenting, as being unpatentable over claims 1-27 of Kerner, et al. (USPN 6,731,726) ("Kerner"). Applicant respectfully disagrees. Applicant respectfully submits that claims 1-27 of Kerner fail to disclose, teach or suggest an in-band caller identification request, an in-band caller identification message or an in-band answer request, which are embedded in a data stream being communicated between the local modem and the host. Accordingly, applicant respectfully submits that claims independent 1, 8 and 14, and their respective dependent claims 2-7, 9-13 and 15-20 are patentably distinguishable over Kerner.

C. Rejection of Claims 14-20 under 35 U.S.C. § 101

The Examiner has rejected claims 14-20, under 35 U.S.C. § 101. Applicant respectfully disagrees; however, in order to expedite the prosecution of the present application, applicant has amended claim 14 to recite “A computer readable medium including a computer program product executable by a processor in a local modem” Accordingly, its respectfully submitted that the Examiner’s rejection has been overcome.

D. Rejection of Claims 1-6 and 8-19 under 35 U.S.C. § 103(a)

The Examiner has rejected claims 1-6 and 8-19, under 35 U.S.C. § 103(a), as being unpatentable over Civanlar, et al. (EP 0741481 A2) (“Civanlar”) in view DePont, et al. (USPN 6,317,488) (“DePont”).

The Examiner acknowledges that Civanlar fails to disclose, teach or suggest “receiving an in-band caller identification request from said host for said caller identification; transmitting said caller identification to said host using an in-band caller identification message; and receiving an in-band answer request from said host to answer said incoming call.” However, the Examiner states that DePont discloses such limitations at Col. 2, line 39 through Col. 3, line 22. Applicant respectfully disagrees. Applicant respectfully submits that DePont fails to disclose, teach or suggest such limitations. In fact, DePont states as follows:

The ICM 12 acknowledges the detected CAS tone 62 by generating a particular DTMF tones from signal generator 27 in block 82. The DTMF acknowledgement notifies the CO switch 18 to send down Caller ID information 64. In one example, the Caller ID information 64 is sent using Frequency Shift Keying (FSK) signaling. The Caller ID information 64 is received by the ICM 12 and then output on display 28 in block 84. The

modem 56 is then reconnected to the telephone line 49 by the controller 20 by directing switch 34 back into position 36 in block 86. (Col. 3, lines 13-22.)

Applicant respectfully submits that DePont does not disclose anything about an in-band caller identification request, an in-band caller identification message or an in-band answer request. DePont simply states that the Caller ID information 64 is received by the ICM and then output on display in block 84. To further clarify the in-band messages and requests of the pending claims, applicant has amended claims 1, 8 and 14 to recite “wherein said in-band caller identification request, said in-band caller identification message and said in-band answer request are embedded in a data stream being communicated between said local modem and said host.”

As a result of utilizing in-band commands and status messages to communicate a modem interruption event to the DTE, the process is performed more efficiently and without interruption of the data flow between the local modem and the remote modem. In addition, the present invention provides a user-transparent modem interruption communications between the DCE and the DTE. Accordingly, independent claims 1, 8 and 14 are patentably distinguishable over the cited references.

Furthermore, dependent claims 2-6, 9-13 and 15-19 should also be allowed at least for the same reasons claims 1, 8 and 14 are patentably distinguishable over the cited references. As examples, claims 5, 12 and 18 have been amended to recite “step of informing uses an RS232 ring signal or a 16550 ring signal to inform said host of said alert signal.” It is respectfully submitted that the cited references fail to disclose, teach or suggest that an RS232 ring signal or a 16550 ring signal is used to inform the host of the alert signal while the local modem is in communication with the remote modem. As further examples, claims 6, 13 and 19 have been

amended to recite “step of informing uses an in-band ring message to inform said host of said alert signal, wherein said in-band ring message is embedded in said data stream being communicated between said local modem and said host.” However, the cited references fail to disclose, teach or suggest that an in-band ring message is used to inform the host of the alert signal while the local modem is in communication with the remote modem.

Accordingly, it is respectfully submitted that claims 1-6 and 8-19 should be allowed.

E. Rejection of Claims 7 and 20 under 35 U.S.C. § 103(a)

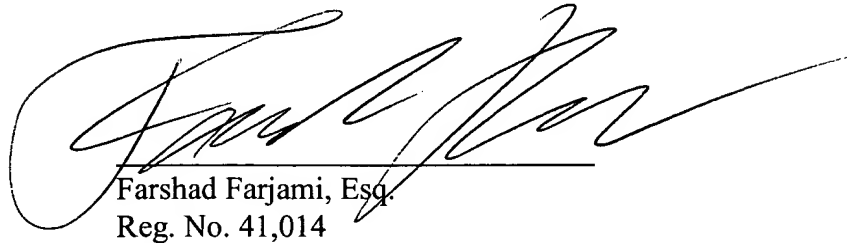
The Examiner has rejected claims 7 and 20, under 35 U.S.C. § 103(a), as being unpatentable over Civanlar in view DePont, and further in view of O’Horo, et al. (USPN 5,519,767) (“O’Horo”).

It is respectfully submitted that claims 7 and 20, depend from claims 1 and 14, respectively and, thus, claims 7 and 20 should be allowed at least for the same reasons stated above in conjunction with patentability of claims 1 and 14.

F. Conclusion

For all the foregoing reasons, an early allowance of claims 1-20 pending in the present application is respectfully requested. The Examiner is invited to contact the undersigned for any questions.

Respectfully Submitted;
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